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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON - EUGENE DIVISION**

**RONDA MCGOWAN, Personal
Representative for the Estate of Brian Babb,
LEE BABB, CONNOR BABB, by and
through his Guardian Ad Litem,
STEPHANIE WOODCOCK, and KAYLEE
BABB,**

Plaintiffs,

vs.

**WILL STUTESMAN, OFFICER GROSE
OFFICER PIESKE Sgt. MCALPINE, CITY
OF EUGENE, a municipal subdivision of the
State of Oregon, JANE DOE CALL TAKER,
John and Jane Does 1-10,**

Defendants.

Case No. 6:17-cv-00424-TC

**DECLARATION OF TIMOTHY
VOLPERT IN SUPPORT OF
PLAINTIFFS' RESPONSE
MEMORADUM IN OPPOSITION
TO DEFENDANTS' FRCP 56
MOTION FOR SUMMARY
JUDGMENT**

I, Timothy R. Volpert, under penalty of perjury do hereby declare as follows:

1. I am over the age of 18, and I make this declaration based on personal knowledge of the facts contained herein.

2. Attached hereto as Plaintiffs' Exhibit 1, is a true and correct copy of Audio Radio Transmission, provided to the Court and Defendants' counsel by thumb-drive.

3. Attached hereto as Plaintiffs' Exhibit 2, is a true and correct copy of a Memorandum from the Deadly Force Review Board to EPD Chief Kerns.

4. Attached hereto as Plaintiffs' Exhibit 3, is a true and correct copy of the deposition transcript of Officer McAlpine.

5. Attached hereto as Plaintiffs' Exhibit 4, is a true and correct copy of the deposition transcript of Officer Grose.

6. Attached hereto as Plaintiffs' Exhibit 5, is a true and correct copy of the deposition transcript of Jim Antonini.

7. Attached hereto as Plaintiffs' Exhibit 6, is a true and correct copy of the deposition transcript of Officer McAlpine.

8. Attached hereto as Plaintiffs' Exhibit 7, is a true and correct copy of Oregon State Police Report, Case Supplemental Report.

9. Attached hereto as Plaintiffs' Exhibit 8, is a true and correct copy of a photograph of a rifle on the front porch of the Babb residence.

10. Attached hereto as Plaintiffs' Exhibit 9, is a true and correct copy of a photograph of Babb dead on his back inside his residence.

11. Attached hereto as Plaintiffs' Exhibit 10, is a true and correct copy of a photograph of Babb's open gun safe.

12. Attached hereto as Plaintiffs' Exhibit 11, is a true and correct copy of the deposition transcript of Officer Warden.

13. Attached hereto as Plaintiffs' Exhibit 12, is a true and correct copy of EPD Use of Force Review Board Report.

14. Attached hereto as Plaintiffs' Exhibit 13, is a true and correct copy of a photograph of interior of BearCat.

15. Attached hereto as Plaintiffs' Exhibit 14, is a true and correct copy of ICV Video BearCat, part 1, provided to the Court and Defendants' counsel by thumb-drive.

16. Attached hereto as Plaintiffs' Exhibit 15, is a true and correct copy of ICV Video BearCat, part 2, provided to the Court and Defendants' counsel by thumb-drive.

17. Attached hereto as Plaintiffs' Exhibit 16, is a true and correct copy of, Oregon State Police Investigative File on the Babb Shooting.

18. Attached hereto as Plaintiffs' Exhibit 17, is a true and correct copy of the deposition transcript of Officer Stutesman.

19. Attached hereto as Plaintiffs' Exhibit 18, is a true and correct copy of the audio of a recorded interview of Officer McAlpine, provided to the Court and Defendants' counsel by thumb-drive.

20. Attached hereto as Plaintiffs' Exhibit 19, is a true and correct copy of a transcript of an interview of Babb's Therapist, Becky Higgins's, 9-1-1 call.

Pursuant to 28 U.S.C. sec. 1746, I declare under penalty of perjury under the laws of the United states of America that the foregoing it rue and correct.

Dated: November 13, 2018

	<p>By: <u>s/ Timothy R. Volpert</u> Timothy R. Volpert, OSB No. 814074 Email: tim@timvolpertlaw.com Tim Volpert PC 610 SW Alder Street, Suite 415 Portland, Oregon 97205 Telephone: (503) 703-9054</p> <p><i>Attorneys for Plaintiff</i></p>
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CERTIFICATE OF SERVICE

I certify that on November 13, 2018 the foregoing Declaration of Timothy Volpert in Support of PLAINTIFFS' RESPONSE MEMORADUM IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY Judgement was filed electronically with the Court. Notice of this filing will be accomplished pursuant to ECF as to Filing Users and complies with Local Rules as to any party who is not a Filing User or represented by a Filing User. Parties may access this filing through the Court's system.

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